

In the Matter of)
)
SHIPCOM, LLC) WT Docket No. 10-2
)
Request for Waiver)

Released: May 12, 2010

3. ShipCom states that it has received requests from public safety entities to provide an emergency watchkeeping service on HF frequencies that would enable these entities to make contact with the “outside world” in the event of a natural or man-made disaster that renders the normal communications infrastructure inoperable.⁴ Section 80.123 permits very high frequency (VHF) public coast stations to provide service to units on land under certain conditions, but does not permit HF public coast stations to provide such service.⁵ Consequently, ShipCom requests a waiver to permit it to provide service to land-based (base and mobile) public safety stations on HF frequencies in the event of a disaster that renders normal communications systems unavailable,⁶ and to permit monthly testing and training to familiarize personnel with how to operate HF equipment and ensure that it is operable.⁷ ShipCom proposes to notify the Commission of the public safety entities with which it makes arrangements for such service, and to comply with all of the conditions in Section 80.123 (including the requirement that priority be afforded to

⁷ See Supplement at 1.

marine-originating communications), except for the limit on antenna height of land units.⁸

4. On January 5, 2010, we sought comment on ShipCom's waiver request.⁹ We received three comments supporting the request.¹⁰

5. *Discussion.* Section 1.925(b)(3) of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹¹ We find that the waiver requested by ShipCom is warranted under the circumstances presented.

6. Specifically, we conclude that a waiver of Section 80.123 would be consistent with the underlying purpose of Section 80.123. When the Commission adopted Section 80.123, it concluded that allowing VHF public coast stations to serve units on land would serve the public interest, provided that certain conditions were met to ensure that the core purpose of the internationally allocated maritime spectrum was preserved.¹² We note that a prior request for waiver to permit a high seas public coast station to provide service to units on land was opposed by maritime licensees, and was denied in order to avoid interference from the proposed operations to maritime communications.¹³ These concerns are not present here, because ShipCom will provide service to units on land only during disasters (and necessary testing and training), and will give priority to marine communications.

7. Moreover, we conclude that grant of the requested waiver would be in the public interest, because it will provide emergency back-up communications for first responders in the event of a catastrophic event that disrupts normal local wired and wireless communications. Commenters agree that HF frequencies have operational and propagation characteristics that permit public safety first responders to coordinate an expedited and coordinated response by those outside the disaster area.¹⁴

⁸ See Waiver Request at 2. ShipCom explains that the 6.1 meter antenna height limit in Section 80.123(e) is proper for VHF operations, but inappropriate for HF communications because of the need to communicate over long distances. *Id.*

⁹ See Wireless Telecommunications Bureau Seeks Comment on Request by Shipcom, LLC for Waiver of Part 80 Rules to Allow Use of High Seas Marine Frequencies by First Responders During Catastrophes, *Public Notice*, WT Docket No. 10-2, 25 FCC Rcd 34 (WTB MD 2008).

¹⁰ See Letter dated January 11, 2010 from Dominic F. Tusa, Tusa Consulting Services II, LLC (Tusa Letter); Letter dated January 12, 2010 from Eric M. Linsley, Director of Public Safety Communications, Mobile County Public Works (Linsley Letter); Letter dated February 3, 2010 from Walter W. Gallinghouse (Gallinghouse Letter). In addition, the Radio Technical Commission for Marine Services filed comments stating that it did not object to the request. See Comment dated January 31, 2010 from Radio Technical Commission for Marine Service.

¹¹ 47 C.F.R. § 1.925(b)(3); see also *WAIT Radio v FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969).

¹² See Amendment of the Commission's Rules Concerning Maritime Communications, *Second Report and Order and Second Further Notice of Proposed Rule Making*, PR Docket No. 92-257, 12 FCC Rcd 16949, 16964-65 ¶¶ 23-26 (1997). The Commission subsequently expanded VHF public coast stations' flexibility to serve units on land, to permit them to provide private correspondence service as well as commercial mobile radio service. See MariTEL, Inc. and Mobex Network Services, LLC, *Report and Order*, WT Docket No. 04-257, 22 FCC Rcd 8971 (2007). Individual waivers also were granted to permit public safety entities to use VHF public coast spectrum for private correspondence. See, e.g., County of Placer, California, *Order*, 20 FCC Rcd 3657 (WTB PSCID 2005); Commonwealth of Virginia, *Order*, 19 FCC Rcd 15454 (WTB PSCID 2004).

¹³ See Technology for Communications International, *Order*, 14 FCC Rcd 16173, 16177 ¶ 8 (WTB PSPWD 1999).

¹⁴ See Tusa Letter at 2; Linsley Letter at 1; Gallinghouse Letter at 1.

8. The waiver is granted subject to the following conditions:

- Service to units on land shall be provided on a secondary, non-interference basis to maritime services, and priority shall be afforded to marine-originating communications. The conditions in Section 80.123(a)-(d), (f)-(g) shall be met, but the antenna height limit in Section 80.123(e) is waived.

- Service shall be provided to units on land only in the event of a disaster that renders the normal communications infrastructure inoperable, and for necessary testing and training to familiarize personnel with how to operate HF equipment and ensure that it is operable. Testing and training shall be conducted no more than once a month by each entity to which ShipCom provides service to units on land.

- Service to units on land shall be provided only to entities that meet the public safety eligibility criteria in Section 90.20(a)(1)(i)-(v), (2)(i)-(iv), (vii), (x), (xiii) of the Commission's Rules.¹⁵ Prior to serving any units on land, ShipCom shall notify the Commission of the entities with which it has made arrangements for such service. Ordinarily, notification shall be made via the Universal Licensing System (ULS) by attaching a notification to the license(s) for the high seas public coast station(s) that the entity may use.¹⁶ In an emergency, notification may be made by facsimile or electronic mail, and ULS updated subsequently.

9. *Conclusion.* Based on our review of the record, we conclude that the underlying purpose of Sections 80.123 would not be served or would be frustrated by application to instant case, and that grant of the waiver request is in the public interest. This limited use of HF maritime spectrum will enhance public safety systems in a disaster or a catastrophic event when normal communications are not readily available. We therefore grant ShipCom's requests for a waiver of the Part 80 rules to permit the use of HF frequencies by public safety first responders during catastrophic situations (and for necessary testing and training). However, because operations on the instant spectrum could, in some circumstances, present a potential for interference to maritime operations, the instant waiver request is granted on the express condition that users not cause interference to marine communications. Additionally, in order to enable the Commission to identify any sources of interference, ShipCom must notify the Commission of the public safety entities with which it makes arrangements to serve units on land.

10. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by ShipCom, LLC on November 6, 2009 IS GRANTED ON THE CONDITIONS SET FORTH ABOVE.

11. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

¹⁵ 47 C.F.R. § 90.20(a)(1)(i)-(v), (2)(i)-(iv), (vii), (x), (xiii).

¹⁶ The notification can be attached to the license(s) using the "non-docket pleadings" link at <https://wireless2.fcc.gov/UlsEntry/pleadings/pleadingsType.jsp>.